

REMARKS

Claims 1, 2, 5 – 9, 11, 18, 21, 25, 35 – 44, 47 – 51 are now pending in the application. Minor amendments have been made to Claims 5, 6, 18 and 25 to adjust the dependency of the claims and to add punctuation to improve clarity. Claims 3, 4, 45 and 46 have been cancelled without prejudice to or disclaimer of the subject matter contained therein. Claims 21 and 35 – 40 have been withdrawn from further consideration but remain pending pursuant to 37 C.F.R. § 1.142(b). New Claims 50 and 51 have been added. Claims 1, 5, 6, 18, 25, 41, 44, 47, 48 and 49 have been amended. Support for the new and amended claims can be found throughout the application as originally filed and, therefore, no new matter has been added. Examples of support for the new and amended claims can be found at Figures 6, 7, 8 and 14 and paragraphs [0039] through [0042] and [0049] through [0051]. All of the new and amended claims include subject matter from previously presented claims and therefore a new search is not required. The Examiner is respectfully requested to reconsider and withdraw the following objections and rejections in view of the remarks below.

CONTACT WITH THE EXAMINER

Applicant thanks the Examiner for the courtesies extended during telephonic conversations on August 9, 2006 and August 11, 2006 with one of the attorneys of record, Joshua B. Dobrowitsky (Reg. No. 51,288). While no formal agreements were reached, the final office action and the claims and references of record were discussed.

In discussions, the Examiner and attorney of record tentatively agreed that Schoenefeld (U.S. Patent No. 6,827,722), as best understood by applicant, discloses

maintaining a guide wire at a fixed distance from the tissue, while a medical device is being inserted. There was also a tentative agreement that a genus claim set could be drafted that would be allowable, if the claim included limitations that define the guide wire moving away from the cannulated driver member while the cannulated driver member rotates. There was a further tentative agreement that subject matter found in the claims included in the restriction requirement, i.e. Claims 21, 25 and 35 – 40, could be used in part in the genus claim set referenced above, as long as the independent claim included the above limitations.

ALLOWABLE SUBJECT MATTER

The office action states that Claims 4 – 9 and 42 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all limitations of the base claim and intervening claims. Applicant has amended Claim 1 to include the limitations of Claims 3 and 4. Claims 5 and 6 have been amended to now be dependant on Claim 1 and Claims 7, 8 and 9 remain dependant on Claim 6. Claim 42 remains dependant on now amended Claim 41, which is the independent genus claim set referenced above and tentatively allowable based on the telephonic conversations with the Examiner.

RESTRICTION REQUIREMENT

In response to the restriction requirement of Claims 21, 25, 35 – 40 and 45 – 49, Applicant elects to withdraw Claims 21, and 35 - 40 from consideration, as being directed to a non-elected invention in accordance with 37 C.F.R. § 1.142(b). Applicants

have amended Claim 25 to be dependant upon allowable Claim 1. Applicants have cancelled Claims 45 and 46 without prejudice to or disclaimer of the subject matter contained therein. Claims 47, 48 and 49 have been amended to depend upon Claim 41. The subject matter contained in Claims 37 and 38 have been reproduced in new Claims 50 and 51.

SUPPORT FOR THE AMENDED AND NEW CLAIMS

As noted above, support for the new and amended claims can be found throughout the application as originally filed. Examples of support for the new and amended claims can be found at Figures 6, 7, 8 and 14 and paragraphs [0039] through [0042] and [0049] through [0051].

CLAIMS OBJECTIONS

Claim 1 stands objected to for an informality. Applicant has amended Claim 1 and respectfully accommodated the objection.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 2, 11, 18, 41, 43, and 44 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Schoenefeld (U.S. Pat. No. 6,827,722). This rejection is respectfully traversed.

Claims 1, 2, 5 – 9, 11, 18 and 25

Claim 1 has been amended to include the allowable limitations of Claim 4 and,

therefore, Claim 1 is now allowable. Claims 2, 5 – 9, 11, 18 and 25 are dependant upon Claim 1 and, therefore, are allowable.

Claims 41 – 44 and 47 – 51

Claim 41 has been amended to clarify, in part, a clasp device of the cannulated follower member that is operable to engage the guide wire and to move the guide wire away from the cannulated driver member as the cannulated driver member rotates. Schoenefeld, in contrast, only holds the guide wire at a fixed distance from the tissue and thus prevents the tool from driving the guide wire further into the tissue. The guide wire is held at a fixed distance because the guide wire holder is configured to slide relative to an outer shaft that can be rotated to insert the medical device. See Abstract; Col. 3, Lines 56 – 62; Col. 4, Lines 23 – 36. Applicant respectfully submits that Schoenefeld does not show, teach or suggest, the clasp device of the cannulated follower member operable to engage the guide wire and operable to move the guide wire away from the cannulated driver member as the cannulated driver member rotates.

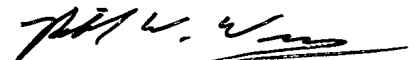
As discussed with the Examiner, amended Claim 41 defines a genus claim for all of the disclosed teachings. It was tentatively agreed that the genus claim would be allowable as amended because Schoenefeld does not show the guide wire moving away from the cannulated driver member while the cannulated driver member rotates. For at least the above reasons, Claim 41 should be allowable. Claims 42 – 44 and 47 – 51 are dependant upon Claim 41 and should be allowable for at least the above reasons.

CONCLUSION

It is believed that all of the stated grounds of objection and rejection have been properly traversed, rendered moot or accommodated. It is believed that a full and complete response has been made to the outstanding Final Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is always invited to telephone the undersigned and Joshua B. Dobrowitsky at (248) 641-1600.

Respectfully submitted,

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